

The Court must engage in a de novo review of every portion of the Magistrate Judge’s report to which objections have been filed. *Id.* However, the Court need not conduct a de novo review when a party makes only “general and conclusory objections that do not direct the [C]ourt to a specific error in the [M]agistrate [Judge]’s proposed findings and recommendations.” *Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982). In the absence of specific objections to the R & R, the Court reviews only for clear error, *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005), and the Court need not give any explanation for adopting the Magistrate Judge’s recommendation. *Camby v. Davis*, 718 F.2d 198, 199–200 (4th Cir. 1983).

Discussion

Plaintiff has filed an amended complaint alleging that on September 28, 2017, she was a customer at a Lowe’s Home Improvement store in Florence, South Carolina, when rugs fell on her leg, foot, and ankle. *See* ECF No. 11. Plaintiff sues the Lowe’s store and corporation, the store manager, and various corporate officers seeking \$70,000 in compensation. The Magistrate Judge recommends summary dismissal for lack of subject matter jurisdiction. *See* ECF No. 16.

The basic statutory grants of federal-court subject-matter jurisdiction are contained in 28 U.S.C. §§ 1331 and 1332. Section 1331 provides for “[f]ederal-question” jurisdiction, § 1332 for “[d]iversity of citizenship” jurisdiction. A plaintiff properly invokes § 1331 jurisdiction when she pleads a colorable claim “arising under” the Constitution or laws of the United States. She invokes § 1332 jurisdiction when she presents a claim between parties of diverse citizenship that exceeds the required jurisdictional amount, currently \$75,000.

Arbaugh v. Y&H Corp., 546 U.S. 500, 513 (2006) (internal citation omitted).

In her objections, Plaintiff asserts the Court (1) has federal question jurisdiction over her amended complaint pursuant to § 1331 and (2) should retain supplemental jurisdiction over her state

law negligence claim pursuant to 28 U.S.C. § 1367. *See* ECF No. 22 at pp. 8–10.² “The presence or absence of federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987); *see Virginia ex rel. Hunter Labs., L.L.C. v. Virginia*, 828 F.3d 281, 286–87 (4th Cir. 2016) (discussing the well-pleaded complaint rule). Although Plaintiff alleges deprivations of her constitutional rights and invokes 42 U.S.C. § 1983, *see* ECF No. 11 at p. 7, her amended complaint does not present a federal question because § 1983 “only provides relief for deprivations of constitutional rights by *state actors*.” *Barrett v. PAE Gov’t Servs., Inc.*, 975 F.3d 416, 434 (4th Cir. 2020) (emphasis added); *see Cox v. Duke Energy Inc.*, 876 F.3d 625, 632 (4th Cir. 2017) (“‘[M]erely private conduct, no matter how discriminatory or wrongful,’ is excluded from the reach of § 1983.” (quoting *Am. Mfrs. Mut. Ins. Co. v. Sullivan*, 526 U.S. 40, 50 (1999))). Consequently, the Court cannot exercise supplemental jurisdiction over any state law claims. *See Arena v. Graybar Elec. Co.*, 669 F.3d 214, 222 (5th Cir. 2012) (explaining that “[w]ithout original jurisdiction on the federal claim, the court cannot assert jurisdiction over state-law claims”).

The Court lacks subject matter jurisdiction over this action and will therefore dismiss Plaintiff’s amended complaint without prejudice. *See* Fed. R. Civ. P. 12(h)(3) (“If the court determines at any time that it lacks subject-matter jurisdiction, the court must dismiss the action.”); *S. Walk at Broadlands Homeowner’s Ass’n, Inc. v. OpenBand at Broadlands, LLC*, 713 F.3d 175, 185 (4th Cir. 2013)

² Plaintiff’s amended complaint only alleges federal question jurisdiction, *see* ECF No. 11 at p. 4, and she does not specifically object to the Magistrate Judge’s recommendation regarding lack of diversity jurisdiction. *See Martin v. Duffy*, 858 F.3d 239, 245 (4th Cir. 2017) (“[A] party must object to the finding or recommendation on that issue with sufficient specificity so as reasonably to alert the district court of the true ground for the objection.”); *Knox v. Magera*, 813 F. App’x 111, 112 (4th Cir. 2020) (recognizing objections must be “specific to the particularized legal recommendations made by the magistrate judge”).

(explaining a dismissal for lack of subject matter jurisdiction “must be one without prejudice”).

Conclusion

For the foregoing reasons, the Court **ADOPTS** the Magistrate Judge’s R & R [ECF No. 16] and **DISMISSES** Plaintiff’s amended complaint *without prejudice* and without issuance and service of process.³

IT IS SO ORDERED.

Florence, South Carolina
November 30, 2020

s/ R. Bryan Harwell
R. Bryan Harwell
Chief United States District Judge

³ As indicated above, Plaintiff had an opportunity to amend her complaint. *See generally Goode v. Cent. Va. Legal Aid Soc’y, Inc.*, 807 F.3d 619, 624 (4th Cir. 2015), *abrogated in part by Bing v. Brivo Sys., LLC*, 959 F.3d 605, 611–12 (4th Cir. 2020).

Plaintiff also filed a motion seeking waiver of filing fees, *see* ECF No. 12, when the Magistrate Judge had already granted her leave to proceed *in forma pauperis*, *see* ECF Nos. 8 & 9. Plaintiff’s motion was therefore unnecessary.